

PRESS STATEMENT FROM THE ATTORNEY GENERAL

Estate of Dame Bernice Lake QC (Deceased) (Appellant) v. Attorney General of Anguilla (Respondent) & Attorney General of Anguilla (Appellant) v. Estate of Dame Bernice Lake QC (Deceased) (Respondent) – Privy Council Appeal No. 0023 of 2020 and 0024 of 2020

Earlier today, 15 August 2022, the Judicial Committee of the Privy Council (Privy Council) delivered judgment in the long standing dispute between the Government of Anguilla and the Estate of Dame Bernice Lake QC (deceased) over certain land which was compulsorily acquired on the 28th November, 2003 for the expansion and development of the Clayton J. Lloyd international Airport.

This dispute has been a long legal saga and centred around the amount of compensation to be paid for the acquisition of the land. 26 acres of land were initially taken and 16 acres were returned to the owner under an agreement dated the 28th March 2008 which provided for an interim payment of US \$ 3 million on condition that if the value of the land exceeded that amount, the Government would owe the difference, and likewise, accordingly, if the value was less that amount, the owner would owe the Government of Anguilla the difference in the amount. Government retained only 10 acres of the land previously acquired from Dame Bernice Lake. The Government and the late Dame Bernice (and subsequently her Estate after her death in 2011) could not come to agreement on a fair market value for the land compulsorily taken and consequential loss arising from the acquisition of the land and the dispute over compensation was submitted to a Board of Assessment in accordance with the Land Acquisition Act of Anguilla.

The Board of Assessment by its decision dated the 8th April 2016 awarded the Estate of Dame Bernice Lake QC (deceased) compensation in the sum of US\$ 1.26 Million. Dame Bernice's Estate appealed the award made by the Board of Assessment to the Court of Appeal of the Eastern Caribbean Supreme Court. The Court of Appeal allowed the Estate's appeal in part and augmented the award of compensation to the Estate to US\$19.5 Million with interests by its judgment handed down on the 11th December 2018.

The Court of Appeal's judgment was significant in three (3) respects, namely – (i) the Court of Appeal adopted an unorthodox approach of re-valuing the land acting as its own valuator employing a methodology unsupportable by law and facts, (ii) considerably increased the singular acreage value of the acquired land on a wrong basis and thereby the total award was significantly higher and (iii) the approach taken by the Court of Appeal to the determination of market value compensation stood as binding precedent to govern courts and Boards of Assessment in other territories and states within the jurisdiction of the of the Court. The case therefore was one which bore wider regional significance.

The Attorney-General appealed the Court of Appeal's judgment to the Judicial Committee of the Privy Council in London largely for those reasons, which the Attorney-General argued were identifiable as errors of law.

The Estate of the late Bernice Lake QC also appealed the Court of Appeal judgment seeking an uplift in the award.

The Privy Council heard the conjoined appeals of both the Attorney-General and the Estate of Dame Bernice Lake QC on the 10th and 11th May, 2022.

By its judgment delivered today, the Privy Council has allowed the Attorney-General's appeal in full, reversed the Court of Appeal completely and has dismissed the Estate's appeal.

The result of the Privy Council judgment is that the Board of Assessment's award of US\$ 1.26 Million handed down in 2016 stands as full and adequate compensation to the Estate of Dame Bernice Lake QC (Deceased) for the land compulsorily acquired by Government of Anguilla for the expansion of the airport.

The Government of Anguilla is therefore not indebted to the Estate of Bernice Lake QC (Deceased) beyond the compensation amounts awarded by the Board of Assessment, which have already been paid.

The Privy Council is Anguilla's highest appellate court – its decisions are final.

The long running battle regarding this land issue is now over.

The Attorney-General commends the exceptional and professional work done by key public officers such as Mr Vincent Proctor, Mr. Leslie J. Hodge, Director of Lands and others, whose support to the Attorney-General and the legal team in the pursuit of this matter all the way to the Privy Council was invaluable.

Hon. Dwight Horsford
ATTORNEY-GENERAL